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THE FOLLOWING TBILISI 00546 DTD 02APR08 SENT ACTION  
INFO EUROPEAN POLITICAL COLLECTIVE REPEATED FOR  
YOUR INFORMATION 03APR08

QUOTE:

C O N F I D E N T I A L TBILISI 000546

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DEPARTMENT FOR EUR/CARC

E.O. 12958: DECL: 04/01/2018

TAGS: PHUM PREL GG

SUBJECT: OPCAT--GEORGIA WORKS ON IMPROVING PRISON CONDITIONS

Classified By: Ambassador John F. Tefft for reasons 1.4(b) and (d).

¶1. (SBU) In June 2007 The Government of Georgia created an Inter-agency Coordination Council to address the issue of torture in prisons and other closed facilities. On March 31, this council met for the first time since September 2007 to discuss the action plan to implement the Optional Protocol to the Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment (OPCAT). One of the key issues was the impending designation of the Public Defender's Office (PDO) as the independent monitoring body (or National Preventive Mechanism). According to NGOs who are experts on prison issues, the appointment of the Public Defender as the NPM should not occur by Presidential Decree, as suggested by the Committee Chairman Giga Bokeria, but by amending the current law on the Organic Responsibilities of the Public Defender to give him and his office the authority and the funding to take on these new responsibilities. Without amending the law, the PDO could run the risk of having the monitoring function without the authority or means to implement it. Although the final decision has not been made, Bokeria appeared resolute that the Presidential Decree decision would prevail. End Summary.

Inter-Agency Council

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¶2. (SBU) Georgia signed the Optional Protocol to the Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment (OPCAT), part of the United Nations Convention Against Torture, in June 2006. Signatories were responsible for implementing an Action Plan within one year of signing OPCAT. In June 2007, a Presidential Decree created the Inter-agency Coordination Council whose responsibilities were to designate an independent body (or National Prevention Mechanism (NPM)) to monitor all closed facilities (prisons, jails, pre-trial detention facilities, psychiatric hospitals, or facilities where detained and vulnerable persons are at risk) and to submit to Parliament an action plan.

¶3. (SBU) The council, which met three times last September, recently took up its duties again, with newly appointed

members to include civil society, NGOS, and international observers. The Inter-Agency Council is made up Georgian ministry representatives, Georgian NGOS and Civil Society members and four international members representing the United Nations Human Rights Office, United Nations International Children and Education Fund (UNICEF), Penal Reform International (PRI), and the U.S. Embassy. The Council's de facto chairperson is MP and influential insider Giga Bokeria and the co-chair Tina Burjaliani, Deputy Minister of Justice (MOJ). Accordingly to the decree, the council is to meet once every three months, or more often if called. By decree, the council should have appointed and voted on a facilitator at the first meeting in September, but Bokeria became the de facto chairman. Prior meetings have been ad hoc, due in nature to the political events of Fall 2007. Recently the council was reconvened with some newly appointed members to continue working on the action plan. The plan, which was based on other European models, included some, but not all recommendations given by members.

#### The Action Plan

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¶4. (SBU) The action plan, which includes provisions for 2008 and 2009, is divided into seven sections that address medical care, promotion of public awareness, enhancement of safeguards to eradicate torture/maltreatment, and training of representatives from relative bodies. The primary criticisms of the plan from NGOs are the lack of measurable benchmarks with projected completion dates, the absence of complete baseline information, and insufficient projected timelines in which to complete the tasks. More than half the tasks on the 25 page document are listed as "continuous" for completion date. The closed facilities which would require monitoring are spread among the Ministries of Education, Internal Affairs, Defense, and Health, Labor and Social Affairs. Gathering all of this data for complete baseline information is a formidable task which will not be done easily, as there is currently no one single focal point. Lastly, the action plan is only projected through 2009, which PRI underscored as a minus given the reforms which need to be done and can not be done within in a mere year. Bokeria's reasoning is that the hard tasks should be tackled first and if needed the council will extend the timeline, but not at the outset.

#### The Means: National Prevention Mechanism (NPM)

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¶5. (SBU) A critical part of OPCAT is the NPM which is the independent body which oversees monitoring. All agree that this body should not be subordinate to the MOJ, given that the prisons are generally its responsibility, but an organization which would be truly independent, such as the Public Defender's Office (PDO). Civil Society and Public Defender's Office representatives support amendments to the law which would broaden PDO's authority and resources to do the job which would have a permanent framework. A Presidential decree could be rescinded at any time and would give the PDO the NPM responsibilities without the funding stream, making him a de facto paper tiger. Conversely, Bokeria's point was that the PDO currently already has the legal basis to monitor any facility, so a change in the law is not needed. As far as funding, the budget law would have to be changed to reflect the budget priorities for the task, but this would need to happen regardless of how the PDO is appointed. Perhaps more telling from the discussion is the observation that the PDO does not believe his current authority is enough (his staff says he is not permitted access to MOD prisons). Bokeria is opposed to changing the law, which the PDO proposes to amend to include extending immunity to those carrying out NPM duties (free from arrest, search, detainment), permitting videotape recording at facilities, and giving them access to more internal documents. Bokeria is also opposed to permitting NGOs to take part in the monitoring.

#### What's Ahead?

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¶6. (SBU) When the council adjourned, Bokeria announced that there would be one more round of updates to the action plan which would come back to the council when they reconvene in "several months." Once the action plan has been approved, then the council would continue to oversee the plan to make sure that the benchmarks are completed and that the NPM is working properly. According to the decree, members should vote on the course of action of how to appoint the NPM, but Bokeria and Burjaliani seem resolute that a presidential decree is the remedy.

Comment

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¶7. (C) The OPCAT Action Plan, if properly implemented, could go a long way to addressing accountability of prison officials and police in their maltreatment of prisoners and addressing poor health care in prisons, by establishing a means to do so with objective milestones to define success. In order for it to be truly successful, however, some ministries will have to overcome their reticence to share data about their respective facilities and PDO will necessarily need the access and resources to monitor all the facilities within his purview. The biggest risk could be that the PDO is appointed as the NPM, but not given the access and resources to implement the plan successfully. Currently his office is not equipped for the myriad new tasks, and although NGOs are willing and able to help, the tough call will need to be made as to which NGOs, who are very competitive and entrenched in the process, will assist and what their selection criteria will be. It's critical that the PDO be given the resources to carry out assigned OPCAT tasks, or it runs the risk, as in the example of the Domestic Violence Law, of "checking the block" to satisfy international players, without the funding stream to make the provisions viable. The U.S. is not a signatory to OPCAT and so post is careful in its role in this forum, but sees the action plan as a potentially powerful tool to improve chronically poor prison conditions.

TEFFT

UNQUOTE: RICE